

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

|                                 |                                                                                                                                                                           |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Date/Time/Location of Incident: | January 14, 2014, 8:45 p.m.,<br>5200 South Dan Ryan Local IB, Chicago, Illinois                                                                                           |
| Date/Time of COPA Notification: | October 19, 2014, 4:59 p.m.                                                                                                                                               |
| Involved Officer #1:            | [REDACTED] star # [REDACTED] employee ID# [REDACTED]<br>Date of Appointment: [REDACTED] 2002, PO, Unit [REDACTED]<br>DOB: [REDACTED] 1976, Male, Black                    |
| Involved Officer #2:            | [REDACTED], star # [REDACTED] employee ID# [REDACTED]<br>Date of Appointment: [REDACTED] 2006, PO, Unit [REDACTED]<br>DOB: [REDACTED] 1980, Female, Hispanic              |
| Involved Officer #3:            | [REDACTED] star # [REDACTED] employee ID# [REDACTED]<br>Date of Appointment: [REDACTED] 2006, PO, Unit [REDACTED]<br>DOB: [REDACTED] 1977, Male, White                    |
| Involved Officer #4:            | [REDACTED] star # [REDACTED] employee ID# [REDACTED]<br>Date of Appointment: [REDACTED] 2005, no longer a<br>Department Member, <sup>3</sup> DOB: [REDACTED] 1980, Female |
| Involved Individual #1:         | [REDACTED] DOB: [REDACTED] 1987, Male, Black                                                                                                                              |
| Case Type:                      | Excessive Force – No injury                                                                                                                                               |

## I. ALLEGATIONS

| Officer            | Allegation                                                                                                                                                                                                                                                                                   | Finding                                  |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| Officer [REDACTED] | The complainant alleged that during a traffic stop on 14 January 2014 at approximately 2045 hours, you without justification: <ol style="list-style-type: none"> <li>1. arrested [REDACTED]</li> <li>2. pulled him from his vehicle; and</li> <li>3. slammed him against his car.</li> </ol> | Exonerated<br>Not Sustained<br>Unfounded |
| Officer [REDACTED] | The complainant alleged that during a traffic stop on 14 January 2014 at approximately 2045 hours, you without justification: <ol style="list-style-type: none"> <li>1. arrested [REDACTED]</li> <li>2. pulled him from his vehicle; and</li> <li>3. slammed him against his car.</li> </ol> | Exonerated<br>Not Sustained<br>Unfounded |

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

<sup>2</sup> Since allegations were served on Officer [REDACTED] her name has changed to [REDACTED]. For the purposes of this report she will be referred to as Officer [REDACTED]

<sup>3</sup> [REDACTED] resigned from the Chicago Police Department effective July 16, 2018. See Attachment 45.

|                    |                                                                                                                                                                                                                                                                                                                        |                                                       |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| Officer [REDACTED] | <p>The complainant alleged that during a traffic stop on 14 January 2014 at approximately 2045 hours, you without justification:</p> <ol style="list-style-type: none"> <li>1. arrested [REDACTED]</li> <li>2. pulled him from his vehicle; and</li> <li>3. slammed him against his car.</li> </ol>                    | <p>Exonerated<br/>Not Sustained<br/>Unfounded</p>     |
| Officer [REDACTED] | <p>The complainant alleged that during a traffic stop on 14 January 2014 at approximately 2045 hours, you without justification:</p> <ol style="list-style-type: none"> <li>1. arrested [REDACTED]</li> <li>2. pointed your weapon at him; and</li> <li>3. made the statement, "Give me a reason to shoot."</li> </ol> | <p>Exonerated<br/>Not Sustained<br/>Not Sustained</p> |

## II. SUMMARY OF EVIDENCE<sup>4</sup>

On January 14, [REDACTED] ("[REDACTED] was observed not wearing a seatbelt and exiting the parking lot without using a turn signal<sup>5 6</sup> by Officer [REDACTED] ("Officer [REDACTED] and Officer [REDACTED] ("Officer [REDACTED] The Officers pulled [REDACTED] vehicle over, ran a name check and subsequently asked [REDACTED] to exit the vehicle. [REDACTED] refused to exit and the Officers called for assistance. According to Officers, [REDACTED] eventually exited his vehicle, and was placed into custody.<sup>7</sup> The assisting officer, Officers [REDACTED] and [REDACTED] indicated they smelled burnt cannabis coming from [REDACTED] vehicle and on [REDACTED] breath. [REDACTED] was charged with disobedience to police officers, no turn signal, driver not wearing a seatbelt, and any amount of drug DUI. No video captured this incident.<sup>8</sup>

[REDACTED] stated he was wearing his seatbelt, used his turn signal when he exited the parking lot and denied having smoked marijuana. [REDACTED] alleged assist Officer [REDACTED] ("Officer [REDACTED] stood at the front of his vehicle, pointed his gun at [REDACTED] and said, "Give me a reason to shoot."<sup>9</sup> [REDACTED] alleged that while [REDACTED] window was rolled down, Officer [REDACTED] dove into the car and attempted to pull [REDACTED] out of his vehicle. Then, multiple officers opened his vehicle's driver side door, grabbing around his arms and throat area, and pulled him from his vehicle. [REDACTED] further, alleged Officers [REDACTED] and [REDACTED] pulled him from his vehicle and slammed him against his car.<sup>10</sup>

<sup>4</sup>COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases opened under IPRA are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, Effective February 13, 2019.

<sup>5</sup> Attachment 11, 41.

<sup>6</sup> Attachment 4.

<sup>7</sup> Attachments 4, 23, 28, 33, and 38.

<sup>8</sup> Attachment 47.

<sup>9</sup> Attachment 11 at 10:30-10:34.

<sup>10</sup> Attachments 1, 11, 41.

The officers denied all allegations against them. Officers [REDACTED] and [REDACTED] admitted Officer [REDACTED] had his weapon, an M4 carbine rifle, drawn and in the ready position.<sup>11</sup> Officer [REDACTED] denied pointing his weapon at [REDACTED]

### III. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

### IV. ANALYSIS AND CONCLUSION

#### a. [REDACTED] alleged officers arrested him without justification.

COPA finds the allegation that officers arrested [REDACTED] without justification is **Exonerated** because he refused officers' lawful order to exit his vehicle and the officers suspected [REDACTED] of smoking cannabis while driving. An officer may arrest a person when the officer has reasonable grounds to believe that the person has committed an offense.<sup>12</sup> In Illinois "no person shall willfully fail or refuse to comply with any lawful order or direction of any

<sup>11</sup> Attachments 23, 40.

<sup>12</sup> 725 ILCS 5/107-2(1)(c).

police officer.”<sup>13</sup> In *Pennsylvania v. Mimms*, the court held that an officer, during a lawful traffic stop, as ordinary course, may order a driver to exit his vehicle.<sup>14</sup> [REDACTED] admitted he refused officers’ commands to exit his vehicle. [REDACTED] arrest report documented [REDACTED] refused to roll down his vehicle’s window or exit his vehicle after several requests to do so by officers. The officers, in their statements, confirmed [REDACTED] refused numerous orders to exit his vehicle. The evidence is clear it was lawful for the officers to order [REDACTED] out of his vehicle and he did not comply.

- b. [REDACTED] alleged officers pulled him from his vehicle and slammed him against his car.

COPA finds the allegation the Officers pulled [REDACTED] from his vehicle and slammed him against the car is **Not Sustained**. It is undisputed that [REDACTED] was forcibly removed from his vehicle. However, there are factual disputes about the manner in which he was removed, specifically whether he was slammed against his car. While it is likely that Officers had authority to remove [REDACTED] from his vehicle, the amount of force used during the encounter had to be necessary and proportional. According to General Order G03-02-02, when an individual fails to comply, by non-movement, with verbal directions, an officer may respond by grabbing the individual’s arm and using come-along holds.<sup>15</sup> [REDACTED] and the Officers gave conflicting accounts of how [REDACTED] was removed from the vehicle. Given the lack of any video evidence or eye witness testimony to corroborate either version of the events, COPA cannot determine the amount of force used in the encounter. Accordingly, the allegation is **Not Sustained**.

- c. [REDACTED] alleged Officer [REDACTED] pointed his weapon at him, and said, “Give me a reason to shoot.”

COPA finds the allegation that Officer [REDACTED] pointed his weapon at [REDACTED] **Not Sustained** because there is insufficient evidence to determine whether Officer [REDACTED] pointed his weapon at [REDACTED]. Rule 38 prohibits an officer from “unlawful or unnecessary use or display of a weapon.” Determining whether Officer [REDACTED] display and use of his firearm was proper is fact dependent. Although [REDACTED] stated Officer [REDACTED] pointed his weapon at him, none of the officers on scene recalled seeing Officer [REDACTED] point his weapon at [REDACTED]. Officer [REDACTED] admitted to having his weapon drawn and in the ready position, and Officer [REDACTED] confirmed the same. However, neither officer indicated whether the gun was ever pointed up, down, or at [REDACTED]. There were no independent witnesses or video to provide any further details.

COPA also finds the allegation that Officer [REDACTED] made the statement, “Give me a reason to shoot,” is **Not Sustained** because there is insufficient evidence to determine whether Officer [REDACTED] made the statement. Rule 8 prohibits an officer from the “disrespect to or maltreatment of any person, while on or off duty. Officer [REDACTED] denied making this statement, and none of the other officers on scene recalled hearing Officer [REDACTED] making this statement. There were no independent witnesses or video to corroborate the incident as told by either [REDACTED] or the officers.

<sup>13</sup> 625 ILCS 5/11-203.

<sup>14</sup> *Pennsylvania v. Mimms* 434 U.S. 106, 111 (1977).

<sup>15</sup> G03-02-02 III.B.1.a.

Approved:

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Andrea Kersten  
*Deputy Chief Administrator*

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Date

**Appendix A**

Assigned Investigative Staff

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|                                    |                |
|------------------------------------|----------------|
| <b>Squad#:</b>                     |                |
| <b>Investigator:</b>               |                |
| <b>Supervising Investigator:</b>   |                |
| <b>Deputy Chief Administrator:</b> | Andrea Kersten |